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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/557,297

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Gianni Perdomi

MI 6108 (US)

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03/04/2009

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EXAMINER

NELSON, MICHAEL B

ART UNIT

PAPER NUMBER

1794

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/557,297	<b>Applicant(s)</b> PERDOMI, GIANNI	
	<b>Examiner</b> MICHAEL B. NELSON	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/14/09 has been entered. Applicant's amendments filed on 01/14/09 have been entered and the 112 2<sup>nd</sup> paragraph rejections have been withdrawn.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karim et al. (U.S. 4,337,298).

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5. Regarding claims 1, 6 and 7, Karim et al. discloses a polymer blend composition of an ethylene copolymer (C1, L50-68), which reads on the instant "interpolymer of ethylene," and a low density ethylene polymer (C1, L35-50), which reads on the instant component Iii. The ethylene copolymer is disclosed as being a copolymer of ethylene and a methacrylic acid ester which reads on the instant comonomer type (1) (C1, L55) and the amount of acrylate is disclosed as being between 4 and 12% which reads on the instant claimed range (C1, L65-68). While no particular density is disclosed at C1, L50-68, given the wide range of melt indexes (i.e. 1-100, C1, L59), one having ordinary skill in the art would expect some of the melt indexes to correspond to resin compositions having densities within the claimed range (i.e. the ethylene methacrylate copolymers in the instant specification at page 12 have melt flow rates of around 2). The low density ethylene polymer (density of less than 0.93 and MFR of between 0.5 and 5) is disclosed as being copolymerized with a higher alpha-olefin of three carbons or more (C1, L35-50). While the exact amount of higher alpha olefin is not disclosed, one having ordinary skill would expect the amount of higher alpha olefin, which is being selected so as to maintain the disclosed density and melt flow rates, to lie within the instant claimed range.

Regarding the relative amounts of ethylene copolymer to LDPE, Karim et al. discloses that the relative amounts of the components in the overall polymer blend are subject to optimization based on the desired end use (C4, L30-50). The relative amounts of ethylene copolymer and LDPE are specifically mentioned as being one such optimizable variable (C4, L38). Hence one having ordinary skill in the art would optimize the relative amounts of the ethylene copolymer and the LDPE in order to adjust the particular mechanical properties of the film, as suggested by Karim et al.

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Regarding the various mechanical strength properties in the instant claims, one having ordinary skill in the art would have adjusted the particular tear and mechanical strength properties of the blend of Karim et al. in order to optimize it for the particular end use (i.e. as suggested at C4, L30-50).

Regarding the preambles of claims 1, 6 and 7 (i.e. polymer blend, container, and stretch wrap film), Karim et al. discloses that the polymer composition has properties which would make it a suitable stock material for a wide variety of applications (C5, L5-50), including laminated into film form (C5, L15-25). One having ordinary skill in the art would expect these properties (especially the adhesive properties) to lend themselves to applications which result in the film being used to contain other articles in a stretch wrap manner.

Regarding claims 2 and 3, Karim et al. discloses all of the limitations as set forth above. Additionally, Karim et al. discloses that the ethylene copolymer be a copolymer of ethylene and methacrylate (C1, L55). Karim et al. also discloses the LDPE contain alpha olefins of three carbons or higher (C1, L45-50).

6. Claims 4, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karim et al. (U.S. 4,337,298) as applied to claims 1 and 7 above, and further in view of Cometto et. al (WO 9520009 A1).

Regarding claims 4, 5, 8 and 9, Karim et al. discloses all of the limitations as set forth above. Karim et al. does not disclose the particular composition as instantly claimed for component II ii. Cometto et al. discloses a a polymer blend comprising a random polymer of ethylene blended with a random interpolymers of propylene

(See page 4, the described polymeric compositions is the polymer blend)  
wherein the random polymer of ethylene is an ethylene-butene-1 copolymer (claim 4)

(See page 7, component (a) corresponds to the random polymer of  
ethylene and a copolymer of ethylene and butene-1 is equivalent to an  
ethylene-butene-1 copolymer)

and wherein the random polymer of propylene is a propylene-ethylene-butene-1  
terpolymer. (claim 5)

(See page 7, component (b) corresponds to the random polymer of  
propylene and a copolymer of propylene with ethylene and butene-1 is  
equivalent to an propylene-ethylene-butene-1 terpolymer)

Cometto et. al further discloses that the polymer blend with the particular random  
polymers of ethylene and propylene has advantages of improved processing  
characteristics and mechanical properties, including, among others, impact resistance  
and tear resistance. These properties are improved over the alternative conventional  
polyethylene polymers, (i.e. the LDPE used in Karim et al.) (See Page 3).

It would have been obvious to one having ordinary skill in the art at the time of  
the invention to have modified the polymer blend of Karim et. al, by substituting the low  
density polyethylene with the polymer blend comprising a random polymer of ethylene  
blended with a random interpolymers of propylene wherein the random polymer of  
ethylene is a ethylene-butene-1 copolymer and wherein the random polymer of propylene  
is a propylene-ethylene-butene-1 terpolymer as taught by Cometto et. al for the purpose  
of improving the processing characteristics and the mechanical properties.

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Modified Karim et al. is silent as to the haze of the film being less than 16% however given the substantially similar polymer blend composition of the components in modified Karim et al. with the instant film, it will, inherently, possess the claimed properties. See MPEP 2112.

### ***Response to Arguments***

7. Applicant's arguments filed on 01/14/09 are considered moot in view of the new grounds of rejection.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL B. NELSON whose telephone number is (571) 270-3877. The examiner can normally be reached on Monday through Thursday 6AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R. Sample/  
Supervisory Patent Examiner, Art Unit 1794

/MN/  
02/06/09